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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 160426363-7275-02]**

**RTID 0648-XS021**

**Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; 2019-2020 Closure of Commercial Run-Around Gillnet for King Mackerel**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements an accountability measure (AM) through this temporary rule for commercial harvest of king mackerel in the southern zone of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) using run-around gillnet gear. NMFS has determined that the commercial annual catch limit (ACL) (equivalent to the commercial quota) for king mackerel using run-around gillnet gear in the southern zone of the Gulf EEZ has been reached. Therefore, NMFS closes the southern zone to commercial king mackerel fishing using run-around gillnet gear in the Gulf EEZ on *[insert date of filing for public inspection with the Office of the Federal*

Register]. This closure is necessary to protect the Gulf king mackerel resource.

**DATES:** The closure is effective from 12 p.m. local time on *[insert date of filing for public inspection with the Office of the Federal Register]*, until 6 a.m. local time on January 19, 2021.

**FOR FURTHER INFORMATION CONTACT:** Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727-824-5305, email: *kelli.odonnell@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish in the Gulf includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights for Gulf migratory group king mackerel (Gulf king mackerel) apply as either round or gutted weight.

The commercial fishery for Gulf king mackerel is

divided into western, northern, and southern zones. The southern zone for Gulf king mackerel encompasses an area of the Gulf EEZ off Collier and Monroe Counties in south Florida, which is the EEZ south of a line extending due west from the boundary of Lee and Collier Counties on the Florida west coast, and south of a line extending due east from the boundary of Monroe and Miami-Dade Counties on the Florida east coast (50 CFR 622.369(a)(1)(iii)).

The commercial ACL for Gulf king mackerel is divided into separate ACLs for hook-and-line and run-around gillnet gear. The use of run-around gillnets for king mackerel is restricted to the Gulf southern zone. On November 13, 2019, as a result of an overage of the 2018-2019 commercial gillnet ACL, NMFS reduced the 2019-2020 commercial quota (equivalent to the commercial ACL) for Gulf king mackerel in the southern zone for vessels using run-around gillnet gear to 530,043 lb (240,423 kg) for the 2019-2020 fishing year, which extends through June 30, 2020 (84 FR 61568, November 13, 2019; 50 CFR 622.388(a)(1)(iii)).

Regulations at 50 CFR 622.8(b) and 622.388(a)(1) require NMFS to close any component of the king mackerel commercial sector when its applicable quota has been reached, or is projected to be reached, by filing a

notification to that effect with the Office of the Federal Register. NMFS has determined that for the 2019-2020 fishing year, the adjusted Gulf king mackerel commercial quota for vessels using run-around gillnet gear in the southern zone has been reached. Accordingly, commercial fishing using such gear in the southern zone is closed at 12 p.m. local time on *[insert date of filing for public inspection with the Office of the Federal Register]*, until 6 a.m. local time on January 19, 2021, the beginning of the next fishing season, *i.e.*, the day after the 2021 Martin Luther King, Jr. Federal holiday. Vessel operators that have been issued a Federal commercial permit to harvest Gulf king mackerel using run-around gillnet gear in the southern zone must have landed ashore and bartered, traded, or sold such king mackerel prior to 12 p.m. local time on *[insert date of filing for public inspection with the Office of the Federal Register]*.

Persons aboard a vessel using hook-and-line gear in the southern zone for which a Federal commercial permit for Gulf king mackerel has been issued, except persons aboard such a vessel also issued a Federal commercial permit to harvest Gulf king mackerel using run-around gillnet gear,

may fish for or retain Gulf king mackerel unless the southern zone commercial quota for hook-and-line gear has been met and the hook-and-line component of the commercial sector has been closed. In addition, as long as the recreational sector for Gulf king mackerel is open (50 CFR 622.384(e)(1)), a person aboard a vessel that has a valid Federal commercial gillnet permit for king mackerel may continue to retain king mackerel under the recreational bag and possession limits set forth in 50 CFR 622.382(a)(1)(ii) and (a)(2).

During the commercial closure, Gulf king mackerel harvested using run-around gillnet gear in the southern zone may not be purchased or sold. This prohibition does not apply to Gulf king mackerel harvested using run-around gillnet gear in the southern zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor (50 CFR 622.384(e)(2)).

#### **Classification**

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Gulf king mackerel and

is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws.

This action is taken under 50 CFR 622.8(b) and 622.388(a)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without prior notice and opportunity for public comment.

This action responds to the best scientific information available. The NOAA Assistant Administrator for Fisheries (AA) finds that the need to immediately implement this action to close the run-around gillnet component of the commercial sector in the Gulf southern zone constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment on this temporary rule is unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the commercial quota and the associated AM has already been subject to notice and comment, and all that

remains is to notify the public of the closure. Prior notice and opportunity for public comment is contrary to the public interest, because any delay in the closure of the commercial harvest could result in the commercial quota being exceeded. There is a need to immediately implement this action to protect the king mackerel resource, because the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment on this action would require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d) (3).

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: February 25, 2020.

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Karyl K. Brewster-Geisz,  
Acting Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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